

EXHIBIT E

TOLLING AGREEMENT

This Agreement is made by and between VICTORY AUTO GROUP, LLC, SPARTAN AUTO GROUP, LLC, VICTORY MOTORS, LLC, d/b/a VICTORY MITSUBISHI, PHILIP ARGYROPOULOS and DIANE ARGYROPOULOS, (collectively "Defendants") and JUAN POLANCO ("Plaintiff"). This agreement is for the benefit of Plaintiff and "Potential Plaintiffs" as that term is defined. "Potential Plaintiffs" are Sales Representatives and Finance Managers employed by Defendants between September 14, 2012 and the date this tolling agreement is ended by either party pursuant to the terms of this Agreement.

WHEREAS Plaintiff has indicated his intent to file an action (the "Action") bringing claims on behalf of himself and Potential Plaintiffs under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA") and New York Labor Law ("NYLL").

WHEREAS counsel for Plaintiff and Defendants agree that pre-litigation discussions of the proposed Action are warranted;

NOW THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, Plaintiff and Defendants hereby agree as follows:

1. Tolling Provision. No statute of limitations on any claim under the FLSA or NYLL shall run against Plaintiff and Potential Plaintiffs and the same shall be tolled during the period of time while this Agreement is in effect and neither party shall put forward or rely upon the period of time while this Agreement is in effect as a bar or laches or for any other purpose to defeat the claims made or to be made in the Action. This paragraph does not apply to claims made to enforce this Agreement. Nothing contained in this Agreement shall be deemed as an admission by any party with respect to any allegations, claims, or defenses.

2. Duration. This Agreement is effective as of September 14, 2018 and shall terminate after either party gives written notice of cancellation to the other.

3. Use of Agreement. During the term of this Agreement, Plaintiff and his counsel shall refrain and forbear from commencing, instituting, or prosecuting any lawsuit, arbitration, action, or other proceeding raising FLSA or NYLL wage and hour claims against Defendants. Furthermore, during the term of this Agreement, counsel for Defendants shall advise counsel for Plaintiff of any other pending litigation or contemplated litigation on behalf of one or more Potential Plaintiffs of which Defendants or its counsel is or becomes aware. Moreover, during the term of this agreement, Defendants agrees not to discuss settlement of claims to be pursued in the Action with Potential Plaintiffs directly, nor to require Potential Plaintiffs to enter into

an arbitration agreement.

4. **Modification.** This Agreement can be modified only in a writing signed by the parties. This Agreement shall constitute the entire understanding between the parties concerning the subject matter of this Agreement and supersedes and replaces all prior negotiations, proposed agreements, and agreements, written or oral, relating to this subject.

5. **Successors.** This Agreement shall bind and benefit each of the parties and their respective predecessors, successors, and assigns.

6. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York.

7. **Execution of Counterparts.** Separate counterparts of this Agreement may be executed by the parties with the same force and effect as if all such parties had executed a single copy of this Agreement.

8. **Authority to Bind.** Each Counsel executing this Agreement represents and warrants that he or she has been authorized to enter into this Agreement on behalf of the party on whose behalf it is signed and that signatory has full and complete authority to do so.

9. **Notices.** Any notice, request, instructions or other document to be provided hereunder by either party to the other shall be in writing and delivered personally or mailed by certified mail, postage prepaid, return receipt requested (such personally delivered or mailed notice to be effective on the date actually received) or by electronic means as follows:

If to Plaintiff, address to:

Joseph A. Fitapelli
FITAPELLI & SCHAFFER, LLP
28 Liberty Street, 30th Floor
New York, New York 10005
jfitapelli@fslawfirm.com

If to Defendants, address to:

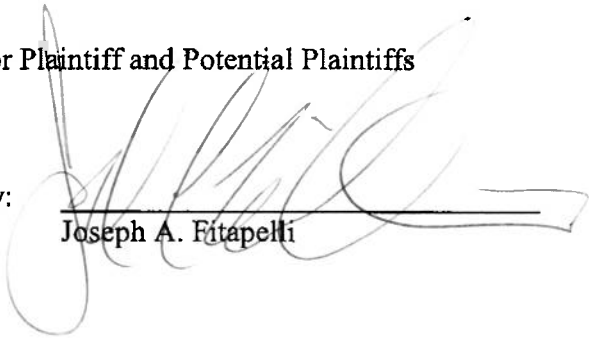
Stephen D. Hans
STEPHEN D. HANS & ASSOCIATES, P.C.
45-18 Court Square, Suite 403
Long Island City, New York 11101

shans@hansassociates.com

Dated: October __, 2018

For Plaintiff and Potential Plaintiffs

By:



Joseph A. Fitapelli

Dated: October 24, 2018

For Defendants

By:



STEPHEN D. HANS